

State Waivers: How a State Could Do Health Reform Its Own Way

Authored by U.S. Senator Ron Wyden, Section 1332 of the Patient Protection and Affordable Care Act - the "Waiver for State Innovation" – will allow states to waive out of some of the requirements of federal health reform if they meet certain standards.

Here's how it would work:

Step 1: The state passes a law to provide health insurance to its citizens.

Step 2: The Secretary of Health and Human Services and the Secretary of the Treasury review the law, and determine that the plan meets the following tests:

- a) The state plan provides insurance coverage that is at least as comprehensive as provided under federal law;
- b) The state plan provides insurance coverage that is as affordable (i.e. cost-sharing and protections against out-of-pocket spending) as it would otherwise be under federal law;
- c) The state plan covers as many people as the federal plan would; and
- d) The state plan will not increase the Federal deficit.

Step 3: Starting in 2017, if the Secretaries of Health and Human Services and Treasury find that the state's law can meet the above requirements without certain federal requirements, states can get a waiver from having to comply with those federal requirements. Depending on the specifics, the state plan could waive out of the following aspects of federal health reform:

- **The individual mandate.**
- The employer penalty for not providing coverage.
- The exact standards for a basic health insurance policy.
- The health insurance exchange.
- The design for how federal subsidies would have to reduce premiums and copays for people
- A state could then collect all of the federal money – the subsidies for premiums, the subsidies for co-pays, and the tax credits for small businesses – in total, and put the money into financing coverage for individuals in its own way.
- The Section 1332 waiver doesn't affect other requirements of the health reform law. However, 1332 includes a coordinated waiver process that allows other programs that allow state waivers (e.g. Medicaid) to be waived through this coordinated process.

What could a state plan look like under the state waiver?

Here are some ideas for what states might do under the state waiver provision:

- 1) Set up a state-run public option that would compete with private insurance companies and hold them accountable. The state could use the total federal dollars it gets to subsidize coverage for low-income folks in the public option as well as in private plans.
- 2) Waive out of the individual mandate. If a state has its own way of making the insurance market competitive and insurance is affordable enough that people will end up buying into the pool anyway, a state could decide to do away with the federal penalty that applies to people that do not purchase coverage.
- 3) Come up with a voucher system that allows people to take the amount employers now contribute to their workers' health coverage with them to new insurance exchanges.

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